

## REMARKS

In accordance with the foregoing, the title of the invention, specification and claims 3 and 17 have been amended. Claims 1-18 are pending and under consideration.

It is respectfully submitted that the present amendments overcome the objections to the specification and claims and the rejection under 35 U.S.C. § 112.

The rejections under 35 U.S.C. § 103 are respectfully traversed because the Examiner's combination of Lee and Towery would not have been obvious. Lee teaches that a problem of the prior art discussed therein is overheating of grills, causing sticking of meat. Lee, col. 1, ln. 47-49. Lee overcomes this problem by circulating a cooling liquid through a fluid circulating pipe of the grill. Lee, col. 2, ln. 50-53. Thus, Lee generally teaches the desirability of cooling. In contrast, Towery teaches the desirability of heating, since Towery generally relates to a fireplace attachment that provides an efficient heat transfer from the fire to the room. Towery, col. 1, ln. 8-12. Thus, one of ordinary skill in the art would not have been motivated by Towery in order to improve cooling of the system of Lee.

The Examiner's purported motivations are that Towery is simple, durable and inexpensive and permits faster starting. However, these are not problems mentioned in Lee, thus, these advantages would not have motivated one skilled in the art to make the Examiner's combination.

Furthermore, with respect to claim 6, this claim recites the inlet of the grilling pipe being connected to an upper portion of the tapered hole, and the air discharging pipe being connected to a lower portion of the tapered hole to allow the grilling pipe to be removably connected to the air discharging pipe. The Examiner states that it is not disclosed that the claimed tapered member solved any stated problem or is for any particular purpose. However, the resulting advantage of easy removal of the grilling pipe would have been readily apparent to one of ordinary skill in the art. The inlet is connected to an upper portion of the tapered hole, thus the inlet is maintained in position by gravity during operation, and is easily removed when not in operation.

The Examiner states that the cooker would perform equally well with a removably connected connection member that is of any shape, has diameters whose extremities are of equal size and is inserted into the grilling pipe. The Applicant respectfully traverses the Examiner's statement and demands the Examiner produce authority for the statement. The Applicant specifically points out the following errors in the Examiner's action.

First, it is noted that the Examiner focuses on the performance of the cooker, however, the Examiner has overlooked the ease of use as one of the advantages of the invention. As discussed above, this arrangement results in an easier removal of the grilling pipe.

Second, the noticed fact is not considered to be common knowledge or well-known in the art. In this case, the limitation is not of notorious character or capable of instant and unquestionable demonstration as being well-known. Instead, this limitation is unique to the present invention. See M.P.E.P. § 2144.03(A) ("the notice of facts beyond the record which may be taken by the Examiner must be "capable of such instant and unquestionable demonstration as to defy dispute").

Third, there is no evidence supporting the Examiner's assertion. See M.P.E.P. § 2144.03(B) ("there must be some form of evidence in the record to support an assertion of common knowledge").

Fourth, it appears that the Examiner also bases the rejection, at least in part, on personal knowledge. The Examiner is required under 37 C.F.R. § 1.104(d)(2) to support such an assertion with an affidavit when called for by the Applicant. Thus, Applicant calls upon the Examiner to support such assertion with an affidavit.

The remaining references do not overcome these deficiencies.

Accordingly, withdrawal of the rejections is requested.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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